

46 Am. Jur. 2d Judges § 55

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Judges

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VII. Compensation; Benefits; Allowances for Expenses

A. In General

§ 55. Retirement and disability benefits of judges

[Topic Summary](#) | [Correlation Table](#) | [References](#)

West's Key Number Digest

West's Key Number Digest, [Judges](#)  [22\(.5\)](#), [22\(4\)](#), [22\(11\)](#)

State statutes generally entitle judges to a certain percentage of their "final salary"¹ or "final compensation"² upon retirement. A judge's "final salary," in this context, refers to the judge's last annual salary as an elected or appointed judge.³ Under some statutes, a judge's "final compensation" is defined as the average monthly compensation for a certain number of months of service immediately preceding retirement.⁴ Benefits are also provided by statute, in some jurisdictions, for judges who elect to retire prior to their normal retirement dates.⁵

Caution:

A judge's disability retirement pay under federal law is not excludable from gross income under the Internal Revenue Code since the former is a disability retirement provision, not a substitute for employer liability, hence not in the nature of workers' compensation.⁶

Judges may fall under the coverage of retirement systems for public employees⁷ or under retirement plans specifically for judges.⁸ Some pension plans applicable to judges are in the form of "contributory plans."⁹ Prior retirement benefits statutes in effect at the time retired judges began employment created implied-in-fact contract rights which vested when the judges

were appointed, subject to age and service requirements, for the purposes of determining whether subsequent amendments to the retirement statutes impaired the contractual relationships between the state and judges, within the meaning of the contracts clause of the state constitution.¹⁰

Per diem district court judges are not entitled to full-time membership credit in a state's retirement system for the entire period of the per diem appointment, as their membership may comprise only those days for which those judges were actually compensated.¹¹

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Footnotes

- 1 Clarkson v. Judges' Retirement System, 173 Mich. App. 1, 433 N.W.2d 368 (1988).
- 2 Cornett v. Board of Trustees of Kentucky Judicial Form Retirement System, 764 S.W.2d 644 (Ky. Ct. App. 1989).
As to the validity of statutorily mandated differences in retirement benefits of judges or between judges and other public employees, see § 56.
- 3 Clarkson v. Judges' Retirement System, 173 Mich. App. 1, 433 N.W.2d 368 (1988).
- 4 Cornett v. Board of Trustees of Kentucky Judicial Form Retirement System, 764 S.W.2d 644 (Ky. Ct. App. 1989).
- 5 Cornett v. Board of Trustees of Kentucky Judicial Form Retirement System, 764 S.W.2d 644 (Ky. Ct. App. 1989).
- 6 Kane v. U.S., 43 F.3d 1446 (Fed. Cir. 1994).
- 7 Shiomos v. Com., State Employees' Retirement Bd., 128 Pa. Commw. 39, 562 A.2d 969 (1989), judgment rev'd on other grounds, 530 Pa. 481, 610 A.2d 15 (1992); Harshbarger v. Gainer, 184 W. Va. 656, 403 S.E.2d 399 (1991).
As to government retirement systems, generally, see Am. Jur. 2d, Pensions and Retirement Funds §§ 1074 to 1165.
- 8 Hargrove v. Board of Trustees of Maryland Retirement System, 310 Md. 406, 529 A.2d 1372 (1987); Harshbarger v. Gainer, 184 W. Va. 656, 403 S.E.2d 399 (1991).
- 9 Hargrove v. Board of Trustees of Maryland Retirement System, 310 Md. 406, 529 A.2d 1372 (1987).
- 10 Cloutier v. State, 163 N.H. 445, 42 A.3d 816 (2012).
- 11 Vail v. Employees' Retirement System of State, 75 Haw. 42, 856 P.2d 1227 (1993).

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